

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

LAURA A. CALHOUN,

Petitioner,

v.

CIVIL ACTION NO. 5:23-cv-00124

MARTIN J. O'MALLEY,
*Commissioner of Social Security
Administration*

Respondent.

ORDER

Pending are Laura Calhoun's Complaint [ECF 2], filed, February 15, 2023, Brief in Support of Judgment on the Pleadings [ECF 12], filed July 12, 2023, and the Commissioner's Brief in Support of Judgment on the Pleadings [ECF 13], filed August 9, 2023. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R on March 1, 2024. Magistrate Judge Tinsley recommended that the Court deny Ms. Calhoun's request to reverse the Commissioner's decision, grant the Commissioner's request to affirm his decision, affirm the final decision of the Commissioner, and dismiss this action from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis


added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically "appeal a magistrate judge's findings that were not objected to below, as § 636(b) doesn't require de novo review absent objection."); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on March 15, 2024. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [ECF 15], **DENIES** Ms. Calhoun's Brief in Support of Judgment on the Pleadings [ECF 12], **GRANTS** the Commissioner's Brief in Support of Judgment on the Pleading [ECF 13], **AFFRIMS** the final decision of the Commissioner, **DISMISSES** the Complaint [ECF 2], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: March 18, 2024




Frank W. Volk
United States District Judge